

92

91.

(Amended) An isolated and purified peptide having an amino acid sequence Xaa<sub>(2)</sub>KKXaa<sub>(6)</sub>LD (SEQ ID NO: 17) wherein said peptide does not have toxin agonist activity, wherein Xaa is an amino acid.

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92.

(Amended) An isolated an purified peptide having an amino acid sequence Xaa<sub>(2)</sub>-charged amino acid-Xaa<sub>(2)</sub>-hydrophobic amino acid-X-hydrophobic amino acid-polar amino acid-polar amino acid-hydrophobic amino acid-D (SEQ ID NO: 18), wherein said peptide does not have toxin agonist activity, and wherein Xaa is an amino acid.

Done

Please **delete** the Sequence Listing and **insert** the substitute Sequence Listing submitted herewith.

#### REMARKS

In accordance with 37 C.F.R. §1.821-1.825, Applicants submit herewith a substitute Sequence Listing in computer and paper form.

The content of the paper and computer readable copies of the Sequence Listing submitted in accordance with 37 C.F.R. §1.821(c) and (e) are the same and do not include new matter.

Amendments to the claims have been made to insert sequence identifiers. Attached hereto is a marked-up version of the changes made to the claims, on a page captioned "VERSION WITH MARKINGS TO SHOW CHANGES MADE." Should any discrepancies be discovered, the version presented in the preceding "IN THE CLAIMS" section shall take precedence.

NEW CLAIMS

Applicants submit that new claims 87-92 do not introduce new matter as discussed in the Preliminary Amendment dated November 19, 2001. Claims 87-92 are directed to peptides having a consensus amino acid sequence and specifically peptides which do not have toxin agonist activity having the following sequences:

- (1) KXaa<sub>(3)</sub>TXaaQEXaaD (claim 87)
- (2) KKXaa<sub>(6)</sub>LD (claim 88)
- (3) charged amino acid-(X)2-hydrophobic amino acid-X-hydrophobic amino acid-polar amino acid-polar amino acid-hydrophobic amino acid-D (claim 89)
- (4) Xaa<sub>(2)</sub>KXaa<sub>(3)</sub>TXaaQEXaaD (claim 90)
- (5) Xaa<sub>(2)</sub>KKXaa<sub>(6)</sub>LD (claim 91)
- (6) Xaa<sub>(2)</sub>-charged amino acid-(X)2-hydrophobic amino acid-X-hydrophobic amino acid-polar amino acid-polar amino acid-hydrophobic amino acid-D (claim 92).

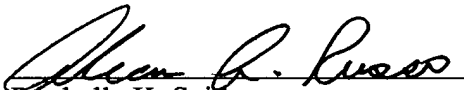
Support for the consensus amino acid sequences of claim 87-92 is found in the peptides of the present invention (SEQ ID NOs:1-11). In addition, as indicated in the specification and above, the claims are further supported by full length exotoxin sequences known in the art at the time the application from which the present application claims priority was filed. The specification clearly provides that the peptides have KK and QELD motifs that are common to SEB, as well as to the related toxins SEA, SEC1, SEC2 and *S. pyogenes* exotoxin A (SPE A). In addition, attached as Exhibit 1, please find a list of sequences which were known at the time of filing of the application to which the present application claims priority and which further support the consensus sequences claimed in claims 87-92.



CONCLUSION

Applicants request a one month extension of time and enclose herewith the required fee pursuant to 37 C.F.R. § 1.17(a)(1). Should any additional fees be required in connection with this response, the Commissioner is hereby authorized to charge Deposit Account Number 02-4377. A duplicate of this page is enclosed.

Respectfully submitted,  
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VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

The claims have been **amended** as follows:

87. (Amended) An isolated and purified peptide having an amino acid sequence  $KXaa_{(3)}TXaaQEXaaD$  (SEQ ID NO: 13) wherein said peptide does not have toxin agonist activity, wherein Xaa is an amino acid.
88. (Amended) An isolated and purified peptide having an amino acid sequence  $KKXaa_{(6)}LD$  (SEQ ID NO: 14) wherein said peptide does not have toxin agonist activity, wherein Xaa is an amino acid.
89. (Amended) An isolated an purified peptide having an amino acid sequence charged amino acid- $Xaa_{(2)}$ -hydrophobic amino acid-X-hydrophobic amino acid-polar amino acid-polar amino acid-hydrophobic amino acid-D (SEQ ID NO: 15), wherein said peptide does not have toxin agonist activity, and wherein Xaa is an amino acid.
90. (Amended) An isolated and purified peptide having an amino acid sequence  $Xaa_{(2)}KXaa_{(3)}TXaaQEXaaD$  (SEQ ID NO: 16) wherein said peptide does not have toxin agonist activity, wherein Xaa is an amino acid.
91. (Amended) An isolated and purified peptide having an amino acid sequence  $Xaa_{(2)}KKXaa_{(6)}LD$  (SEQ ID NO: 17) wherein said peptide does not have toxin agonist activity, wherein Xaa is an amino acid.
92. (Amended) An isolated an purified peptide having an amino acid sequence  $Xaa_{(2)}$ -charged amino acid- $Xaa_{(2)}$ -hydrophobic amino acid-X-hydrophobic amino acid-

polar amino acid-polar amino acid-hydrophobic amino acid-D (SEQ ID NO: 18), wherein said peptide does not have toxin agonist activity, and wherein Xaa is an amino acid.

The Sequence Listing has been **deleted** and the attached substitute Sequence Listing has been **inserted**.